

APPEAL NO. 020832
FILED MAY 15, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 20, 2002. The hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable injury on _____; that the respondent (carrier) is not relieved of liability for the claimed injury under Section 409.002, because the claimant timely reported his alleged injury to his employer; and that because the claimant did not sustain a compensable injury, he did not have disability within the meaning of the 1989 Act. The claimant appealed the hearing officer's injury and disability determinations on sufficiency grounds. In its response, the carrier urges affirmance. The hearing officer's determination as to timely reporting was not appealed and has, therefore, become final pursuant to Section 410.169.

DECISION

Affirmed.

The claimant had the burden to prove that he was injured in the course and scope of his employment. There was conflicting evidence on that issue, which was a question of fact for the hearing officer. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by medical evidence where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. Rowland v. Standard Fire Ins. Co., 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). Our review of the record does not reveal that the hearing officer's determination that the claimant did not sustain a compensable injury is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm her determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **COLONIAL CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**BILL HAGAN
12850 SPURLING, SUITE 250
DALLAS, TEXAS 75230.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Susan M. Kelley
Appeals Judge